

Information Item

Governmental Relations Committee

Federal Update, June 2001

This item provides a brief update on some of the major issues affecting education occurring at the national level, including updates on federal budget discussions and recent activities relating to the reauthorization of the Elementary and Secondary Education Act (ESEA). Because the report was prepared in early May, Commission staff will provide an oral update on any subsequent events at the Commission's June meeting.

Presenter: Karl M. Engelbach.



Federal Update, June 2001

**Purpose and content
of this item**

This is a brief update on some of the major issues affecting education occurring at the national level. At the Commission meeting, staff will also provide an oral update on any late-breaking events at the federal level.

**Federal fiscal year
2002 budget
resolution**

The House and the Senate voted recently on the FY 2002 Budget Resolution Conference Report. Many in the education community seriously oppose the proposed conference report, since it eliminates \$320 billion in increased funding for education related programs that had been proposed by the Senate.

On Thursday, May 10, the Senate approved next year's federal budget outline, which lays the foundation for \$1.35 trillion in tax cuts -- advancing President Bush's agenda of tax relief and limits on government growth. The Senate voted 53-47 to approve the budget outline, with five Democrats siding with Republicans. A handful of moderate Democrats cast the decisive votes for passage of the \$1.95 trillion spending blueprint in the Senate, which is evenly divided 50-50 between Republicans and Democrats. The support of Sen. John Breaux (D-La.) paved the way for other moderates to vote in favor of the plan.

The House approved the budget blueprint on Wednesday, May 8, by a 221-207 vote, with just six Democrats supporting the plan. Three Republicans voted against it.

The plan would increase government spending by only four percent in fiscal year 2002 this year, far less than under President Clinton. The plan would also provide for a big tax cut -- about \$1.35 trillion over 10 years.

April 15th is the statutory deadline for Congress to pass a budget resolution. Each year, leaders pledge to meet the deadline and nearly every year they fail, as they did again this year.

The budget resolution is a non-binding blueprint, to be used by appropriators as a guideline for the write up of the actual tax and spending bills. It seems certain that spending and tax cut parameters in the resolution will be effectively tossed out during the appropriations process.

A group of roughly a dozen moderate Democrats in the Senate held out on supporting the plan for several days while they negotiated with Republicans. At issue was language they sought to ensure \$100 billion for economic stimulus would be spent in the next two years, rather than over a span of 11 years. In addition, there was an attempt to get Republicans to commit to \$6 billion more in education funding. Republicans refused, but

added non-binding language stating that providing education funding was a top priority.

The federal funding allotted in the proposed resolution for all education, training, employment, and social services programs is limited to inflation increases only. This means that, in order to fund President Bush's proposed education priorities, the other education, social service, and training programs in the budget will have their funding sharply reduced.

The Education Committees in both houses and the debate on the Senate floor add new education programs and funding increases for existing programs. If the overall budget resolution does not contain an increased allotment of federal funds for education and related programs, it will be very difficult for any increases outside the President's top priorities to hold.

**Federal
appropriations for
education programs**

The Senate Appropriations Subcommittee on Labor, Health and Human Services and Education began its budget hearings on the U.S. Department of Education programs on Thursday, May 10.

**Reauthorization of the
Elementary and
Secondary Act
(ESEA)**

During the week of May 7, the full Senate began debate on Senate Bill 1 - the Better Education for Students and Teachers Act (BEST). To date, the Senate bill continues to call for stricter accountability, maintains testing for students in grades 3-8 in mathematics and reading, and includes a limited Straight A's program that would allow certain states to consolidate all federal funds for any educational purpose. Vouchers were not included in the bill; instead failing schools will be given additional support and students in failing schools will be permitted to use some Title I funds for supplemental tutoring. However, several amendments for voucher demonstration projects are expected. Amendments offered and accepted so far would guarantee full funding of the Individuals for Education Act, increase authorizations for Title I, restore community technology centers, and strengthen test development. An amendment to restore the Class Size Reduction program was defeated.

By a vote of 41 to 7, the House Education and Workforce Committee marked up and passed House Resolution (HR) 1, its bill to reauthorize the Elementary and Secondary Education Act, titled the Leave No Child Behind Act.

Like the Senate bill, the HR 1 contains annual testing of students in grades 3-8 in mathematics and reading, provides greater assistance to low performing schools, includes strict accountability provisions, and consolidates a number of federal programs. The Committee eliminated vouchers for private tuition from the bill, and adopted an amendment that would almost double Title I funding over the next four years.

Markup of the bill was delayed for several days because of objections from several conservative Republicans who felt the bill did not reflect the

President's proposals. This bill is coming to the full House for final approval starting on March 17. During floor debate Representative Ehlers (R-MI) and Representative Rush Holt (D-NJ) will introduce an amendment that would require states to assess student performance in science by the 2007-2008 school year (this language was removed from the original bill). Unlike the current language for reading and math assessments in HR 1, the Ehlers amendment would not tie future federal funding to student performance on these science assessments.

Language on both of these bills is likely to change during floor debate and action.

California Postsecondary Education Commission staff has sent letters to selected California Congressional members expressing concerns about these proposals, since they would potentially eliminate the Commission's role and responsibility for administering the Eisenhower Teacher Professional Development State Grant Program -- a competitive grant program supporting K-12 teacher professional development and linking K-12 schools with higher education institutions.

House Education Committee launches website to obtain public comment regarding regulatory change

The House Committee on Education and the Workforce has recently launched a temporary website at <http://www.fed.up@house.mail.gov> for the public to make suggestions regarding changes needed in federal regulations affecting federal higher education programs. The website will be open until June 15; after that date a bill emphasizing deregulation will be developed based on submissions to the committee's website.

New report criticizes teacher preparation accountability standards

In a recent national report, a panel of the National Research Council cautioned policymakers that reliance on teacher licensure test results as the sole measure of teacher preparation program quality may lead to "erroneous conclusions," and urged a more comprehensive approach to accountability for these programs.

The report, requested by the U.S. Department of Education following the passage of the Teacher Quality Enhancement Act of 1998, focused on three issues:

- ◆ The appropriateness and technical quality of the licensure tests currently in use;
- ◆ The merits of using licensure test results as a sole/principal accountability measure; and
- ◆ Possible alternatives for developing and assessing beginning teacher competence.

In reviewing these issues, the report found the following:

- ◆ Licensure testing alone is not a sufficient measure of program quality. Policymakers need a more comprehensive view to make that determination, one that includes information such as state/district

nation, one that includes information such as state/district evaluation of beginning teachers, assessment data for students related to course/program benchmarks, etc.

- ◆ Accordingly, incentives and sanctions (such as those stipulated in the Teacher Quality Enhancement Act) should not be pursued until a more comprehensive approach to accountability is in place.
- ◆ In the instances where testing is employed, states should employ rigorous field testing and evaluation processes in selecting licensure tests and determining the passing scores for those tests. Additionally, the report expressed concern over the adequacy and transparency of some of the current testing instruments.

The Testing Teacher Candidates: The Role of Licensure Tests in Improving Teacher Quality is available on-line at

<http://www.nap.edu/books/0309074207/html/index.html>.

Legislation would double funding to minority serving institutions

H.R. 1162, introduced recently by Representative George Miller of California, would double the maximum Pell Grant award for students at Historically Black Colleges and Universities, Hispanic Serving Institutions, and Tribally Controlled Colleges. The bill known as the 21st Century Education Act also includes provisions to double general aid and build infrastructure at developing institutions, including tribal colleges.

Students must now answer drug conviction questions for aid

The U.S. Department of Education has closed a loophole that allowed students applying for federal financial aid to not answer whether they had been convicted of drug offenses. The policy comes from the Drug-Free Students Loan Act, part of the 1998 Higher Education Act, that prohibits aid applicants that have been convicted of drug offenses to receive federal student financial aid. According to the Act, first-time drug offenders are ineligible for aid for one year, second-time offenders for two years, and third-time offenders are ineligible indefinitely. Last year, 100,000 applicants left the question blank.

States substantially increase student aid spending in 1999-2000

A recent report indicates that states have taken advantage of unprecedented economic growth in recent years to significantly step up their student financial aid efforts. At the same time, however, researchers also found that the shift from need-based to non-need-based aid is continuing, and at a faster rate than before.

The report, published by the National Association of State Student Grant and Aid Programs (NASSGAP), found that states spent just over \$4 billion for college grants and scholarships in 1999-2000, a 12.6 percent increase over the previous year.

The one-year jump was the largest since 1993, and the second largest since 1978. Preliminary numbers for 2000-2001 indicate that states will

post at least one more double-digit increase in this area before the effects of the economic slowdown take hold.

Spending on merit awards appears to be a driving force in the current growth spurt. Merit awards rose 20 percent from 1998-99 to 1999-2000, and now comprise 22 percent of all state student aid expenditures, up from 15 percent in 1994-95.

**U.S. Supreme Court
curbs ability to sue
public colleges
for discrimination**

In a closely divided opinion, the U.S. Supreme Court recently ruled that federally financed state entities, including colleges and universities, cannot be sued over policies that have a "disparate impact" on racial/ethnic minorities. The ruling, which split the Court's conservative faction from its more liberal bloc, held that such discrimination suits are legitimate only if plaintiffs can demonstrate that federally funded entities are intentionally discriminating through their policies.

The case, *Alexander v. Sandoval*, involves a suit brought against the Alabama Department of Public Safety over its decision to offer driver licensing examinations in English only. The plaintiff, Sandoval, brought a class action suit against that state over its policy, arguing that Alabama discriminated against non-English speaking residents in violation of Title VI of the Civil Rights Act of 1964. After the U.S. Court of Appeals for the 11th Circuit sided with Sandoval and struck down the policy in 1999, the State of Alabama appealed to the U.S. Supreme Court.

The high court, however, ruled that private citizens have standing to sue under Title VI only if they can prove that state entities accepting federal funds engaged in outright, deliberate discrimination. The ruling stands to affect a number of current suits, including those dealing with admissions standards for minority applicants.

**Some distance
education courses
may be jeopardized
due to potential FCC
regulations**

Earlier this year, the Federal Communications Commission (FCC) published a *Notice of Proposed Rulemaking and Order* (NPRM) requesting comment on the possible use of frequency bands below 3 GHz to support the introduction of new advanced wireless services. Many colleges and universities offering distance education programs and courses have Instructional Television Fixed Service (ITFS) licenses issued by the FCC. The ITFS programs operate on the frequency band at issue. One of the options that the FCC is considering is reallocating this frequency band to the new commercial wireless technologies. If the FCC chooses this course of action, the distance learning ITFS programs offered by colleges and universities could be jeopardized. The final FCC regulatory decision is anticipated later this summer.
